UNITED NATIONS CONVENTION
ON THE LAW OF THE SEA

CLCS

COMMISSION ON THE LIMITS OF THE CONTINENTAL SHELF

Distr.
GENERAL

CLCS/6
4 May 1998

ORIGINAL: ENGLISH

Third session
New York, 4-15 May 1998

AGENDA

1. Opening of the third session by the Chairman of the Commission.

2. Adoption of the agenda.

3. Organization of work.

4. Letter of the Legal Counsel, Under-Secretary-General of the United Nations for Legal Affairs, to the Commission on the Limits of the Continental Shelf containing the legal opinion on the applicability of the Convention on the Privileges and Immunities of the United Nations to the members of the Commission (CLCS/5).

5. Technical guidelines with respect to the data and information to be included in the submission by a coastal State (reports of the six working groups of the Commission).

6. Consideration of outstanding issues in the rules of procedure of the Commission.

7. Scientific and technical advice to coastal States, as referred to in article 3, paragraph 1 (b), of annex II to the United Nations Convention on the Law of the Sea.

8. Other matters.

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STATEMENT BY THE CHAIRMAN OF THE COMMISSION ON THE LIMITS OF THE CONTINENTAL SHELF ON THE PROGRESS OF WORK IN THE COMMISSION

1. The third session of the Commission on the Limits of the Continental Shelf was held at United Nations Headquarters, New York, from 4 to 15 May 1998. The Commission held a total of 18 meetings.

2. The following 20 members of the Commission attended the session: Mr. Alexandre Tagore Medeiros de Albuquerque, Mr. Osvaldo Pedro Astiz, Mr. Lawrence Folajimi Awosika, Mr. Ali Ibrahim Beltagy, Mr. Samuel Sona Betah, Mr. Harald Brekke, Mr. Galo Carrera Hurtado, Mr. André Chan Chim Yuk, Mr. Peter F. Croker, Mr. Noel Newton St. Claver Francis, Mr. Kazuchika Hamuro, Mr. Karl H. F. Hinz, Mr. A. Bakar Jaafar, Mr. Mladen Juračić, Mr. Yuri Borisovitch Kazmin, Mr. Iain C. Lamont, Mr. Wenzheng Lu, Mr. Yong Ahn Park, Mr. Daniel Rio and Mr. Krishna-Swami Ramachandran Srinivasan. One member of the Commission, Mr. Chisengu Leo Mdala, was unable to attend the session.

3. The Commission had before it the following documents: provisional agenda (CLCS/L.4) which, after it was adopted with an amendment, was reissued as approved (CLCS/6); letter from the Legal Counsel, Under-Secretary-General of the United Nations for Legal Affairs, to the Commission containing the legal opinion on the applicability of the Convention on the Privileges and Immunities of the United Nations to the members of the Commission (CLCS/5); letter from the Chairman of the Commission on the Limits of the Continental Shelf to the President of the Eighth Meeting of States Parties to the United Nations Convention on the Law of the Sea (SPLOS/26); conference room papers and other proposals submitted by the members of the Commission on scientific and technical guidelines for preparation of the submissions by coastal States of the data and other material regarding the outer limits of its continental shelf.

4. The meeting was opened by the Chairman, Mr. Yuri B. Kazmin. In his opening statement, the Chairman brought to the attention of the members a number of

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developments which had taken place since the last session in relation to the two annexes to the Rules of Procedure of the Commission which had not been adopted. He expressed the hope that consultations during the current session could allow the Commission to come to a consensus on both annexes.

5. Annex I, entitled "Submissions in case of a dispute between States with opposite or adjacent coasts or in other cases of unresolved land or maritime disputes", dealt with the complex issue of how the Commission should treat possible submissions containing areas under actual or potential delimitation dispute. At the last session, it had been decided not to adopt that annex pending further discussion in the Commission. It had been agreed that the Chairman would submit the annex for comment to the Meeting of States Parties to take place immediately after the Commission's third session, and those comments would be taken into consideration at the following session of the Commission.

6. The adoption of annex II on confidentiality had been postponed by the Commission pending a positive resolution of the question raised as to the liability of its members in the event of an accusation by a submitting State that a breach of confidentiality had taken place. The Commission had decided at its last session that its members were entitled to enjoy the privileges and immunities of United Nations experts on mission, and awaited the opinion of the Legal Counsel as to whether they were correct in asserting that those privileges applied to them.

7. In relation to annex II, the Chairman brought to the members' attention the letter dated 11 March 1998 from the Legal Counsel, Under-Secretary-General of the United Nations for Legal Affairs addressed to the Commission and entitled "Legal opinion on the applicability of the Convention on the Privileges and Immunities of the United Nations to the members of the Commission" (CLCS/5). The Chairman noted that Mr. Hans Corell, the Legal Counsel, was present to answer any questions regarding the content and implications of the legal opinion. He suggested that if the members of the Commission felt that the opinion satisfactorily addressed their concerns about their liability in case of potential accusations of breach of confidentiality, the Commission should take note of the opinion, and should adopt annex II after it was considered by the Meeting of States Parties.

8. In response to a question posed by one of the members, the Legal Counsel noted that although the legal opinion was not per se binding on States, such opinions were usually respected by States. For the matter to be legally binding, an advisory opinion of the International Court of Justice could be obtained under article VIII, sections 29 and 30 of the Convention on the Privileges and Immunities of the United Nations.

9. The Commission expressed its appreciation to the Legal Counsel and took note of the legal opinion.

10. It was decided by the Commission to establish an Editorial Committee on the Scientific and Technical Guidelines which will assist coastal States in preparing their submissions containing data and other material regarding the outer limits of their continental shelves. Mr. Galo Carrera was elected Chairman of the Committee.

11. The Committee considered and adopted the structure and contents of the Guidelines. Several drafting groups were formed in order to prepare 10 chapters and two annexes on special criteria contained in article 76 of the Convention for the definition of the continental shelf and on the requirements for data and other material to be included in the submissions:

(i) Introduction (Mr. Carrera);

(ii) Units, Definitions and Terminology (Mr. Carrera, Chairman; Messrs Albuquerque, Brekke, Hamuro, Hinz, Lamont and Rio);

(iii) Outer Limits based on Metrics and the Outer Limit of the Continental Shelf (Mr. Carrera, Chairman; Messrs Albuquerque, Astiz, Brekke, Francis, Hamuro, Jaafar, Mdala, Rio and Srinivasan);

(iv) Determination of the 2,500-metre Isobath (Mr. Lamont, Chairman; Messrs Albuquerque, Astiz, Awosika, Carrera, Francis, Hinz, Rio and Srinivasan);

(v) Foot of the Slope (Mr. Rio, Chairman; Messrs Albuquerque, Astiz, Carrera, Croker, Francis, Hamuro and Lamont);

(vi) Evidence to the Contrary (Mr. Hinz, Chairman; Messrs Betah, Jaafar, Juračić, Kazmin and Park);

(vii) Ridges (Mr. Hamuro, Chairman; Messrs Brekke, Hinz, Juračić, Lu, Kazmin and Park);

(viii) Sediment Thickness (Mr. Brekke, Chairman; Messrs Awosika, Croker, Juračić and Park);

(ix) Data and Other Material regarding the Outer Limits of the Continental Shelf (Mr. Albuquerque, Chairman; Messrs Brekke, Carrera, Hamuro, Hinz, Lamont and Rio);

(x) References and Bibliography (Mr. Carrera);

Annex I: List of International Organizations (Mr. Carrera);

Annex II: Flowcharts, Tables and Illustrations Summarizing the Procedure for Establishing the Outer Limits of the Continental Shelf (Messrs Jaafar, Chan Chim Yuk).

12. An Oversight Group, with Mr. Awosika as Chairman and Messrs Astiz, Beltagy and Hamuro as members, was also established to ensure that all issues raised in the 1993 and 1995 reports of the Groups of Experts were addressed in the guidelines.

13. The drafting groups produced preliminary versions of the first nine chapters and annex II. Chapter 10 and annex I will be prepared at a later stage. The drafts were then discussed by the Editorial Committee consisting of its Chairman and the Chairmen of the individual drafting groups. The revised

draft chapters were then amalgamated into a rough draft of the Guidelines for consideration by the Commission at the current session in a plenary meeting. It was agreed that the members of the Commission should submit any further comments on the draft document to the Chairmen of the respective drafting working groups by 1 July 1998. The Chairmen of those groups would submit comments on their chapters to Mr. Carrera by 20 July 1998 to allow him to prepare a further draft for consideration by the Commission during its next session in September.

14. Further discussion took place on the Rules of Procedure of the Commission, namely certain provisions of annex I, especially paragraphs 5 and 6, whose texts had not been supported by consensus at the previous session. The Commission decided to withdraw paragraph 5. It also selected the first of two alternative subparagraphs of paragraph 6. Changes were also introduced to paragraph 1 of annex I. The Commission then agreed by consensus on the text of the annex, but confirmed its decision not to adopt it until after the Meeting of States Parties to the Convention, to take place from 18 to 22 May 1998, had considered it.

15. The Commission also decided to forward annex II for consideration to the Meeting of States Parties. Both annexes would then be considered for adoption at the following session of the Commission in September. The Rules of Procedure of the Commission have been reissued in a revised form as document CLCS/3/Rev.1.

16. A proposal to create a training committee within the Commission was made by Mr. Carrera, but did not achieve consensus support. However, the Commission felt that it was essential to provide scientific and technical advice during the preparation of the data for submission by coastal States, especially to developing States which might be at a technological disadvantage in preparing a submission. Although it was emphasized that the Scientific and Technical Guidelines were aimed at providing information and assistance to coastal States, as well as guiding the Commission, several members pointed out that the Guidelines must lend themselves ultimately to practical application. Several methods of assisting States were discussed, and it was agreed that the issue was of considerable importance and should be discussed at the next session.

17. The Chairman noted that once again the Commission members, utilizing their skills in several disciplines, had cooperated to produce a preliminary draft version of the third basic document that the Commission had to prepare before it was in a position to receive the first submissions. In this respect he expressed his appreciation and gratitude to the Chairmen of the drafting groups and, in particular, to Mr. Carrera, who had accepted the task of chairing the Editorial Committee and of finalizing the draft single document on the issue.

18. The Commission conveyed its appreciation to Mr. Hans Corell, the Legal Counsel, for his legal opinion on the status of the members of the Commission as United Nations experts on mission. It congratulated the staff of the Division for Ocean Affairs and the Law of the Sea for the efficient preparation of the documents of the Commission and for their assistance during the session. It also expressed its appreciation of the other staff, including the interpreters, who, despite the difficulties posed by complex scientific and technical terminology, had made it possible for the members of the Commission to communicate easily with one another.

19. The members of the Commission expressed their appreciation to the Chairman of the Commission for his patience, guidance and able stewardship which had enabled the third session to achieve positive results.